

## **REMARKS**

### **1. Summary of the Office Action**

In the Office Action mailed on August 27, 2008, the Examiner rejected claims 1-12 and 14-28 under 35 U.S.C. § 103(a) as being unpatentable over Palsson (U.S. Patent 7,121,058) in view of Searer (U.S. Patent 5,570,554). The Examiner rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Palsson and Searer further in view of Schulte (U.S. Patent 6,672,030). The Examiner rejected claims 8, 10, and 24 under 35 U.S.C. § 112 as being indefinite.

### **2. Status of the Claims**

Claims 1-27 are currently pending. Of these claims, claims 1, 14, 26, and 27 are independent and the remaining claims are dependent. Claims 8, 10, and 24 have been amended in this response to clarify the claim language. Support for these amendments may be found generally throughout the specification.

### **3. Response to Claim Rejections**

#### **A. Palsson does not disclose the feature "wherein the undercut of the groove and the part of the tongue protruding on the edge each have an at least partly chamfered profile" as recited in independent claims 1, 14, and 26.**

Independent claims 1, 14, and 26 recite the limitation "wherein the undercut of the groove and the part of the tongue protruding on the edge each have an at least partly chamfered profile". This is shown at least in Figure 3, elements 21 and 22. This feature is also described in the application in paragraph 14, wherein it states: "By making use of oblique profiles instead of curved profiles for the undercut and the protruding part of the tongue, a less vulnerable profile is obtained which furthermore defines clear abutting surfaces."

Applicants respectfully submit, that contrary the Examiner's assertion, the Palsson reference does not disclose the feature of "wherein the undercut of the groove

and the part of the tongue protruding on the edge each have an at least partly chamfered profile". In fact, although the specification text of the Palsson reference appears silent about the profile of the undercut of the groove and the protruding part of the tongue, Figures 2 and 10 to which the Examiner refers clearly show that these two surfaces are rounded.

Neither the Searer reference nor the Schulte reference makes up for the deficiencies of Palsson since neither shows a chamfered undercut of the groove or a part of the tongue protruding on the edge. Applicants respectfully submit that the claims are allowable for at least this reason.

**B. Palsson does not disclose the feature "wherein the outer edge segment of the first covering part and the inner edge segment of the second covering part define a gap" as recited in Independent claims 1 and 26.**

Independent claims 1 and 26 recite the limitation "wherein the outer edge segment of the first covering part and the inner edge segment of the second covering part define a gap". This is shown at least in Figure 2, element 24. Applicants submit that the Examiner has failed to provide a reasoned basis as to why a skilled person would consider including the teachings of Searer into the covering taught by Palssen.

As explained in paragraph [0040] of the present application, the gap between the edge segments 50 and 6i in the fitted situation of the covering parts serves to absorb expansion of the base material without this resulting in the deformation on the visual side. In that respect it is important to note that the visual side of the covering of the present application is formed by a layer of relative higher grade material than the base layer. Consequently, the top layer and the base layer will have different properties. This is not the case in the Searer reference, which discloses solid covering members made of a single material.

Therefore, the problem of uneven deformation of the two layers will not occur in the flaw ring disclosed in the Searer reference, so that the skilled person had no

incentive to consider the Searer reference in the first place. Moreover, in the Searer reference there is also a gap between the tongue 38 and the groove 26, which therefore cannot be said to be form fitting. It is not clear why the skilled person, even if he would have considered combining the Searer and Palsson references, would have included the gap at the bottom but not the gap within the tongue and groove connection.

In view of the above, Applicants traverse the Examiner's rejections of claims 1 and 26.

**C. The References do not disclose the feature where the top layer "has a thickness in the range of 1mm to 4 mm " as recited in independent claim 27.**

Claim 27 has been amended to recite that the top layer has a thickness in the range of 1mm to 4 mm. The prior art references show two different types of floor coverings. The conventional type was the covering as disclosed in the Searer reference, which consisted of solid wooden covering members, while the other type was the so-called "click" or "snap" laminates as disclosed in Palsson, which consisted mainly of a base layer of a low cost material like chip wood, mdf or hdf, covered at the visual or topside by a very thin decorative layer intended to convey the impression of a higher great material. The decorative layer in this type of covering is so thin that it has no structural significance.

The covering of the present application on the other hand is made of covering members that for a large part consist of real wood. The thickness of the wooden top layer in relation to the thickness of the base layer is such that it is structurally significant. In the illustrated embodiment the top layer amounts to some 25% of the total panel thickness so that the panel is truly made of a two component or high-grade material.

The prior art does not contemplate such a structural composition. As both the structural properties and the behavior when subjected to varying temperatures and humidities of the solid wooden top layer will differ from those of the base layer, it was

believed that these two materials could not be combined in a snap connecting system where extremely small tolerances and high dimensional stabilities are required. It has now surprisingly been found that the principle of the so called click or snap laminates, which had been applied only with extremely thin top layers that did not influence the structural properties of the panel, can also be applied to panels having a relatively thick top layer of solid wood.

Moreover, the original snap laminate was designed to provide a low cost alternative to traditional wooden flooring panels. Therefore, the covering of the present application might seem to represent a step backwards. However, it has been found that the manufacturing cost of the covering of the present application is only slightly higher than that of the snap laminate having a printed paper or veneer top layer as taught by Palsson, while providing the comfort, natural atmosphere and durability of a conventional wooden floor as taught by Searer. In fact, the covering of the present application may even be sanded when worn, rather than having to be replaced like snap laminate. Therefore, in the long run, the total cost of the covering of the present application is even lower than that of snap laminate.

Applicants respectfully submit that surprising results associated with the structure recited claim 27 demonstrate that it is not an obvious variation of the prior art, and is therefore allowable.

**D. The Schulte Reference does not disclose the feature "after the first and second covering parts have been mutually connected a third covering part is arranged" as recited in claim 13.**

Regarding claim 13 the Examiner relies on the Schulte reference US 6,672,030. However, the method disclosed in the Schulte reference appears to be the opposite of the method defined in claim 13, which states "after the first and second covering parts have been mutually connected a third covering part is arranged...". Schulte proposes first connecting the short side (end edge) of the third covering part, and only then the

long side (side edge), as is clearly described in column 3, lines 12-45, column 7, lines 11-42 and shown in Figure 5. Therefore, the method of claim 13, which is already novel and non-obvious by virtue of its dependency from claim 11, is further distinguished from this hypothetical combination of the three prior art documents cited by the Examiner.

## CONCLUSION

In light of the above amendments and remarks, the Applicants submit that the present application is in condition for allowance and respectfully requests notice to this effect. The Examiner is requested to contact the Applicants' representative below if any questions arise or if he may be of assistance to the Examiner.

Respectfully submitted,

Dated:February 27, 2009

By: /Robert J. Irvine III/  
Robert J. Irvine III  
Reg. No. 41,865  
312 913 3305  
irvine@mbhb.com